

FINAL TEXT

Amend California Code of Regulations, title 22, sections 66266.1 and 66266.2 to read:

§66266.1. Justification Statement for Disposal of a Recyclable Hazardous Waste.

(a) Within 365 days of the disposal of a recyclable hazardous waste listed in section 66266.2, the Department may request the generator of such hazardous waste to provide the Department with a written statement justifying having not recycled the recyclable hazardous waste. A generator requested to provide such a statement shall comply within 30 days of the Department's written request.

(b) The Department's request for a statement from the generator pursuant to subdivision (a) above shall cite a special property or component of the hazardous waste and a possible use or method of recycling the hazardous waste that the Department considers economically and technologically feasible.

(c) The statement from the generator pursuant to subdivision (a) above that justifies having not recycled a recyclable hazardous waste shall include, at a minimum, the following information:

- (1) the general description, source, chemical composition, physical state, and amount of the recyclable hazardous waste;
- (2) the amount of similar hazardous waste discarded or recycled during the 365-day period preceding the disposal in question;
- (3) an estimate of the amount of similar hazardous waste to be generated by the generator in the 365-day period succeeding the disposal in question;
- (4) a summary of efforts made to find a use for the recyclable hazardous waste such as the following:
 - (A) use without processing;
 - (B) use after processing to remove or modify undesired impurities;
 - (C) use as a source of energy by the generator or by another person;
- (5) the technologic, economic and other reasons for not recycling the recyclable hazardous waste, taking into account relevant factors, which may include any of the following:
 - (A) the available amount and the storability of the recyclable hazardous waste;
 - (B) chemical, physical, toxicological or other properties of the recyclable hazardous waste which might affect its recyclability;
 - (C) the concentration or recoverability of the chemical component, chemical reactivity, fuel value or other attribute cited by the Department pursuant to subdivision (b) above which may determine the feasibility of recycling the hazardous waste;

- (D) the processing required in recycling the recyclable hazardous waste and the availability and cost of suitable processing technology and facilities;
 - (E) the marketability of the recyclable hazardous waste or its reclaimed components in terms of the distance from the recyclable hazardous waste source to the point of use or reclamation, the costs of handling and transport, and the current market prices for the individual waste components as pure or technical grade materials ;
 - (F) copies of the diligent investigation or environmental audit of the facility or facilities that could have potentially recycled the recyclable hazardous waste; and/or
 - (G) any other information pertaining to the facility or facilities that could have potentially recycled the recyclable hazardous waste that influenced or formed the basis of the generator's decision to dispose of the recyclable hazardous waste.
- (d) The justification statement shall identify all information contained therein that the generator believes is a trade secret as defined in Health and Safety Code sections 25173 and 25358.2. It is the obligation of the generator claiming the trade secret to substantiate the claim. The Department shall notify the generator when the Department has made its determination regarding the generator's claim that certain information contained in the statement submitted to the Department pursuant to this section is a trade secret.
- (e) The Department shall notify the generator, in writing within ninety (90) days, of its findings after it has reviewed the generator's justification statement.
- (f) A generator who disposes a recyclable hazardous waste (at least 30 days after the generator receives a notice of the Department's finding that the hazardous waste is economically and technologically feasible to recycle) is subject to five times the disposal fee that would otherwise apply to the disposal of that hazardous waste.

NOTE: Authority cited: Sections 25150 and 25175, Health and Safety Code.
Reference: Sections 25159.5 and 25175, Health and Safety Code.

§66266.2. List of Recyclable Hazardous Wastes.

(a) Wastes on the list of Recyclable Hazardous Wastes in subdivision (b) are wastes which the Department finds to be both economically and technologically feasible to recycle.

(b) List of Recyclable Hazardous Wastes

acetone
benzene
butanol
carbon tetrachloride
chloroform
ethanol
ethyl acetate
ethylene glycol (used antifreeze)
Freons
hexanes
lead-acid batteries
methanol
methylene dichloride
methyl ethyl ketone
mixed hydrocarbon solvents
paint thinner
perchloroethylene
trichloroethane
toluene
xylenes
used oil

NOTE: Authority cited: Sections 25150 and 25175, Health and Safety Code.
Reference: Sections 25159.5 and 25175, Health and Safety Code.